

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIRIACO PUCILLO,)	
)	
Plaintiff,)	
)	
vs)	CASE NO. 03-CV-12359 MLW
)	
METSO PAPER, INC., and)	
VALMET CONVERTING, INC.,)	
)	
Defendants.)	
_____)	

COPY

DEPOSITION

OF

RICKY K. HOWE

Taken by Plaintiff
Charlotte, North Carolina
February 8, 2005

Reported by: Colleen J. Cain, CSR

Cain & Crane Court Reporters, LLC

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1 Q. Correct.

2 A. Work on the Atlas slitter?

3 Q. Correct.

4 A. No.

5 Q. And what is your current position with
6 Bobst Group?

7 A. Customer service manager.

8 Q. For how long have you been customer
9 service manager?

10 A. With the Bobst Group?

11 Q. Well, no, because I know you've only
12 been -- strike that. Have you been the customer
13 service manager with the Bobst Group since
14 February 1, 2004?

15 A. I would say that really the position was
16 defined better in March, about a month after they
17 took us over.

18 Q. Is that when possibly your title
19 changed?

20 A. Yeah.

21 Q. What was your title prior to customer
22 service manager?

23 A. I was more or less the customer service
24 manager over just the Atlas, Titan, general
25 vacuum machines.

1 Q. How does that differ from what you are
2 now?

3 A. I'm now over the Italian lines too.
4 There's two Italian lines that we sell spare
5 parts and service for.

6 Q. So you added additional
7 responsibilities?

8 A. They did, yeah.

9 Q. Throughout the period of time that the
10 company was known as Valmet, were you a customer
11 service manager?

12 A. Not for the entire period. I really
13 didn't think about this until now. But when it
14 actually -- one of the things, I was always over
15 spare parts. Eventually it drifted to where I
16 was over the Titan service technicians. Then
17 eventually, I became over all the technicians. I
18 couldn't tell you a time frame. It just kind of
19 went along.

20 Q. Have you always been in the customer
21 service department?

22 A. Not since 1989, no. We used to build
23 equipment here. And as we were building
24 equipment, they hired me to handle all the
25 machine shop buys and purchases of mechanical

1 parts and that sort of thing. Eventually they
2 stopped manufacturing equipment. When they did
3 that, they retained me to run the spare parts
4 side of it. I did that for several years until
5 eventually things changed to where I became over
6 the technicians too.

7 Q. When did they stop manufacturing
8 equipment?

9 A. I think we built machines for about
10 three years.

11 Q. After 1989?

12 A. That's rough. That's not exact, because
13 again, I wasn't really prepared to be exact on
14 any of that.

15 Q. That's okay. When you said for three
16 years, I wasn't sure if you meant for three years
17 that Atlas was in operation or for your first
18 three years of employment at Atlas.

19 A. Right.

20 Q. And you meant the latter, your first
21 three years, approximately?

22 A. Yeah, I came on board and we built
23 machines for about three years.

24 Q. Was the Atlas slitter one of the
25 machines you built?

1 A. Yes.

2 Q. Do you know whether the Atlas slitter
3 which is in the Proma facility, currently in
4 Franklin, Massachusetts, was built in the United
5 States?

6 A. No, it was built in England.

7 Q. So that particular model was not built
8 here?

9 A. Right. We didn't build machines over
10 about three years. Those machines are larger.

11 Q. I can eliminate that whole group of
12 questions --

13 A. I'm trying to help you.

14 Q. Now, once you stopped manufacturing
15 equipment in the United States, it's my
16 understanding that you then went into more of a
17 customer service position?

18 A. That's correct.

19 Q. And you oversaw spare parts?

20 A. That's correct.

21 Q. What do you mean when you say you
22 oversaw spare parts?

23 A. Well, you can imagine a company in
24 England trying to do business in the United
25 States. We needed to be able to manufacture

1 parts and find local parts to be able to sell
2 to -- just to respond quicker to the customers.
3 That was the job they created to keep me, more or
4 less.

5 Q. So customers who would have Atlas
6 slitters in the United States that would need
7 replacement parts would get those through you?

8 A. Yeah.

9 Q. When I say "you," I mean in general,
10 Atlas.

11 A. Right.

12 Q. But specifically that would be part of
13 your job responsibility?

14 A. Yes.

15 Q. And what would you do to obtain the part
16 that they needed?

17 A. Well, it just depended. If it was a
18 mechanical part, you looked at the drawings. If
19 it was something that was capable of being
20 manufactured here without a lot of trouble, we
21 manufactured the parts here. Parts that I
22 thought were a little risky to manufacture here,
23 I would just have them built in the UK.

24 Q. The parts that were manufactured here,
25 are they still being manufactured here?

1 sales manager, but at the same time, he was more
2 or less the manager for the Atlas machines.
3 Again, these time frames, I'm trying to remember.

4 Q. That's okay.

5 A. I'm doing my best with it. I didn't do
6 a lot of study for this.

7 Q. I understand. It's my understanding
8 that Bobst Group is now a sales and service
9 facility?

10 A. Yes.

11 Q. And that they have a physical office in
12 Charlotte; is that correct?

13 A. Yes.

14 Q. And that there is no more manufacturing
15 involved or storage of equipment; is that
16 correct?

17 A. Right. We're office only.

18 Q. And prior to that, Valmet had had some
19 plant facility; is that correct?

20 A. We had a warehouse and a small workshop,
21 but we didn't manufacture any equipment.

22 Q. Did you keep an inventory of spare
23 parts?

24 A. Sure.

25 Q. Do you recall whether Valmet had an

1 inventory of the Infranor drive boards?

2 A. We didn't inventory new drive boards --
3 I'm trying to think -- there was a time period in
4 the early goings when we may have kept a board.
5 But eventually customers, more or less, they
6 bought one or two drives, and they just didn't
7 have to have them right away anymore. They
8 generally had a supply on hand. They may be
9 replacing a drive that had failed. We drive
10 these arms. Typically they had several on a
11 machine. So if one was to go bad, they could
12 just take a drive and run that arm. It wasn't
13 going to stop the equipment. The way we tried to
14 manage the business was to try to have parts on
15 hand that the machine would stop if we couldn't
16 produce a part real quick.

17 Q. Am I correct that Bobst services several
18 different Atlas slitter models?

19 A. Sure.

20 Q. Are you familiar with the Atlas slitter
21 model that was involved in this particular
22 incident?

23 A. Basically, yes.

24 Q. If I were to suggest to you the model
25 CSE1250R, does that sound correct?

1 A. Sounds reasonable, yeah.

2 Q. Were you involved at all with the
3 purchase of that machine for the facility in
4 Massachusetts?

5 A. No.

6 Q. You weren't one of the people that would
7 have gone up to Massachusetts to determine the
8 needs for the Van Leer Metallized Products?

9 A. No.

10 Q. Some of these questions I just have to
11 ask to make sure you don't know.

12 A. I'm fine.

13 Q. Do you know presently how many of this
14 particular model slitter rewinder there are in
15 the United States?

16 A. I don't know how many, no.

17 Q. Do you know if it's more than five?

18 A. I wouldn't think there was more than
19 five of them.

20 Q. Is the servicing of those models that
21 are out there in the United States done through
22 your office?

23 A. When you say servicing, do you mean the
24 actual work, or do they call us to set up the
25 service work?

1 Q. If the owners of one of the other Atlas
2 slitter rewinders out there in the United States
3 has a problem with their machine, do they call
4 you or do they call Bobst?

5 A. Call us and ask for a technician, yes.

6 Q. And if they need a replacement part,
7 does that go through you as well?

8 A. Yes.

9 Q. I'm just going to skim through some
10 questions here to make sure I don't need to ask
11 you these questions so I can make this a little
12 bit quicker.

13 A. Sure.

14 Q. Are you familiar with how the Atlas
15 slitter rewinder works?

16 A. A little bit.

17 Q. Is that something that's within your job
18 responsibility, to be familiar with the actual
19 workings of the machine?

20 A. Not to where I come to work every day
21 and my responsibility is to know how that machine
22 works. But for what I do every day and having
23 been around it so much, I know something about
24 them, yes.

25 Q. Let me just say, we have already deposed

1 Mr. Purcell, as you probably know.

2 A. Yes.

3 Q. And he gave us a description of the
4 working of that machine. Do you think that you
5 would have better information or more complete
6 information than him?

7 A. I see what you're asking. No.

8 Q. So I can rely on his description of
9 the --

10 A. He's the technical expert on that
11 machine.

12 Q. Are you familiar in general, though,
13 that the Atlas slitter has rewind arms that hold
14 a core?

15 A. Yes, ma'am.

16 Q. And each of those rewind arms is
17 controlled by a drive, correct?

18 A. Yes.

19 Q. And those are the Infranor drive boards?

20 A. On that machine.

21 Q. Unless I say otherwise, I'm going to be
22 specifically referring to the machine at the
23 Proma facility in Massachusetts, which as we've
24 said, is model CSE1250R. And my understanding is
25 the Atlas contract number is actually the serial

1 number; is that correct?

2 A. That's correct.

3 Q. So this serial number, 92036, is unique
4 to that piece of equipment, correct?

5 A. That's correct.

6 Q. Are you familiar with the operating
7 guide?

8 A. No.

9 Q. It's my understanding that the assembly
10 of the two arms and the core constitutes a
11 winding station, correct?

12 A. That's right.

13 Q. And those winding stations on this
14 particular machine are numbered?

15 A. Right.

16 Q. If at any time I ask you questions
17 that's not within your realm --

18 A. I won't answer it.

19 Q. Okay. I just want to know what you
20 know. It's my understanding that the arms are
21 identified as left and right, correct?

22 A. Correct.

23 Q. And are the drive boards that pertain to
24 the left arm the same as the drive boards that
25 pertain to the right?

1 A. I don't know.

2 Q. So you don't know whether if you have a
3 drive board pertaining to a left arm that needs
4 to be repaired or replaced, is it the same as the
5 one that would go to the right?

6 A. I don't know.

7 Q. Do you know from your experience with
8 people ordering spare parts whether or not there
9 is a distinction in the Infranor drive boards
10 that would be ordered for the Atlas slitter?

11 A. Again?

12 Q. What I'm trying to understand is, the
13 Atlas slitter, the model that's up in the Proma
14 facility, has a number of drives that control the
15 rewind arms, correct?

16 A. That's correct.

17 Q. And those are what are referred to as
18 the Infranor drive boards, correct?

19 A. Correct.

20 Q. And putting aside that there may be
21 other drives in that piece of equipment,
22 specifically with respect to the Infranor drive
23 boards that control the rewind arms, is there
24 more than one model?

25 A. There were a different series of the

1 drives.

2 Q. Is that the M55's and the M59's?

3 A. That's correct.

4 Q. And do you know when the switch went
5 from M55 to M59?

6 A. No.

7 Q. Is it fair to say that within the last
8 couple years it's been consistently the M59's?

9 A. Toward the end, all were M59's, because
10 that was the replacement model.

11 Q. When you say "toward the end," can you
12 give me any idea how long "toward the end" has
13 been?

14 A. Well, I couldn't tell you exactly. See,
15 we don't really use Infranor drives anymore. We
16 have a different drive. That's been for the last
17 couple of years really. I can't sit here and
18 tell you what was the last machine that came out
19 with Infranor drives.

20 Q. And my understanding is that now you
21 don't use the Infranor drives anymore, correct?

22 A. Well, we have a different drive that we
23 prefer to use. But if a customer came along and
24 said: I want you to use this drive or that
25 drive, we want to sell the machine, we'll put

1 whatever drive they ask for. But as commonplace,
2 we don't use the Infranor drives anymore.

3 Q. What about with customers that have
4 older pieces of equipment that have been using
5 the Infranor drives; are they still continuing to
6 use the Infranor drives?

7 A. Yes, replacement drives.

8 Q. For example, Proma, we know have the
9 Infranor drives, correct?

10 A. Right.

11 Q. And if they were to call you and say, "I
12 need a new drive," that would be an Infranor
13 drive, correct?

14 A. Well, you have to be specific on your
15 machine model and serial number. The records are
16 kept in the UK on all of that. So we would take
17 that and go back and tell England, this is what
18 we're looking for.

19 Q. Let's focus in on the recordkeeping on
20 the serial numbers. What recordkeeping is kept
21 with respect to each order of a replacement
22 drive?

23 A. A copy of the sales order, a copy of the
24 purchase order to the UK, any sort of fax,
25 correspondence, quotations, anything like that,

1 we'd keep as a hard copy for later reference.

2 Q. When you say "we keep," is that Bobst
3 Group keeps or Atlas UK keeps?

4 A. Metso had a different computer system.
5 I stressed in the department to keep hard copies
6 of the purchase orders and sales orders all
7 together as recordkeeping. Bobst doesn't stress
8 that. But we haven't been Bobst long enough to
9 where that's affecting anything yet.

10 Q. How about when it was Valmet; what kind
11 of recordkeeping did you keep?

12 A. Actually, when I say Metso, I mean
13 Valmet.

14 Q. What is the relationship between Metso
15 and Valmet?

16 A. It's screwy. To be honest with you,
17 Valmet was Valmet when they bought us. It was a
18 finished company. And somewhere they merged with
19 another company and made Metso. And I can only
20 tell you what I know as a layman, because that
21 wasn't my job, and I had plenty to do.

22 So they came along and named it another
23 company. But we kept the Valmet name because we
24 had just changed into Valmet, and we thought the
25 customers could be confused. That was the reason

1 A. Serial number. Generally we'd --
2 because of the records we kept in England, it
3 would tell if there was any sort of special setup
4 on anything on any of the drives.

5 Q. The serial number that you're referring
6 to is a serial number for the Atlas slitter,
7 correct, not the Infranor drive board?

8 A. That's right.

9 Q. So that would be your first level of
10 inquire, would be, what is the serial number of
11 the machine that this is going into; is that
12 correct?

13 A. We'd start there, right.

14 Q. And you would communicate with Atlas UK
15 in England, and they would be able to tell you
16 particular to that serial number what
17 modifications need to be made to the board?

18 A. Right.

19 Q. And am I correct that they then purchase
20 the board from Infranor?

21 A. Yes.

22 Q. Are you involved with the process by
23 which Infranor provides Atlas UK with the board?

24 A. No.

25 Q. Do you know whether Atlas communicates

1 with Infranor the modifications that need to be
2 made to the board?

3 A. I don't know that, no.

4 Q. But at some point, modifications are
5 made to the board that are unique to that
6 particular serial number, correct?

7 A. I don't know that for certain.

8 Q. Let's assume hypothetically that that
9 particular serial number does have modifications
10 required for that particular serial number. Do
11 you know whether the Proma serial number, the
12 92036, does that have any indication that
13 modifications are going to be made to those
14 boards?

15 MR. KELLEHER: Objection.

16 You can answer the question, if you can.

17 A. I don't know that, no.

18 Q. So if somebody from Proma calls you, you
19 get the serial number, you call Atlas UK, and you
20 say: I need an Infranor drive board for that
21 serial number, correct?

22 A. That's correct.

23 Q. You don't say anything about
24 modifications, correct?

25 A. To England?

1 Q. To England.

2 A. No.

3 Q. So somewhere in England then, Atlas UK
4 sends you back a board, correct?

5 A. Sure.

6 Q. Do you assume that that board that has
7 come to you has any modifications done to it that
8 needed to be done to it?

9 MR. KELLEHER: Objection.

10 A. I don't have to assume anything at that
11 point in time. There wouldn't be a reason to
12 assume anything. I have done what we've
13 portrayed needed to be done correctly. So
14 there's not an assumption one way or the other.
15 That's the reason I went to England to buy it in
16 the first place. I don't assume the drive is
17 modified. I don't assume anything. I go there
18 and buy that drive because it's the place to go
19 and get it. If any modifications have to be
20 made, or whatever, they would do it there.

21 Q. That's what I'm saying. It's your
22 understanding that any modifications that need to
23 be made are done there, correct?

24 MR. KELLEHER: Objection.

25 A. Right.

1 that would come back from Atlas UK for you to
2 send to Proma, did you record the serial number
3 of that drive?

4 A. For repairs?

5 Q. No, for new.

6 A. No.

7 Q. And you indicated that once the board
8 came back from the UK, you didn't perform any
9 modifications to those boards before they went to
10 Proma, right?

11 A. No, we didn't perform any modifications.

12 Q. Did anyone from Atlas/Valmet/Bobst do
13 any modifications or set any switch on the
14 daughter cards prior to them being sent to Proma?

15 MR. KELLEHER: Objection.

16 A. Who did?

17 Q. That's probably jumping way ahead. Are
18 you familiar with the Infranor drive board and
19 the daughter card?

20 A. Yes.

21 Q. And are the daughter boards attached to
22 the Infranor drive boards by someone at
23 Atlas/Valmet/Bobst or is it Atlas UK?

24 A. Atlas UK.

25 Q. So you're not involved with that step?

1 A. That's correct.

2 Q. And if there was to be a setting done on
3 a switch on the daughter board, would that have
4 been done before it gets to you?

5 A. Sure.

6 Q. And you don't keep any records or have
7 any records that would indicate what settings
8 that switch should be at?

9 A. No.

10 Q. When a board comes in for repair, is
11 that something that you're involved with?

12 A. Yes.

13 Q. That's completely different than
14 somebody calling and ordering a new board,
15 correct?

16 A. Correct.

17 Q. Is it fair to say that if Proma, for
18 example, has a problem with their machine and
19 they can't figure out whether the board has
20 degraded to the point that it's no longer
21 working, they can send it to you for diagnostics?

22 A. Not for diagnostics.

23 Q. What would they send it to you for?

24 A. Not for diagnostics at our facility.
25 They would send it to us, and the intention was

1 to return it to the UK.

2 Q. So you don't perform the repairs on the
3 boards in the United States?

4 A. No.

5 Q. Do you keep records of what boards are
6 sent to the UK for repair?

7 A. Off and on we did.

8 Q. Let me show you some documents and ask
9 you, can you identify those two documents?

10 A. These are -- this is just printed off of
11 one of our computer screens.

12 Q. That being the first page, correct?

13 A. Right. The second one is a document
14 from Van Leer that would have come with the board
15 when it came in.

16 Q. The documents that would come in from
17 Van Leer, would you keep a copy of those in your
18 facility, or would that be sent on to Atlas UK
19 with the board?

20 A. It was done differently through the
21 years. But typically the UK would get a copy of
22 this. At one period of time, we would have kept
23 a copy of this stapled to a repair order, and
24 that changed in and out through the years.

25 MS. COUNIHAN: Can we mark this, please.

1 Before we mark that, can we just mark, so that
2 they go in some order --

3 BY MS. COUNIHAN:

4 Q. I'm going to completely digress to the
5 very beginning of the deposition. The document
6 in front of you, have you had an opportunity to
7 look at that?

8 A. Yes.

9 Q. Is this the notice of taking your
10 deposition for today?

11 A. Yes.

12 MS. COUNIHAN: Let's mark that one
13 first, and then this one.

14 (Plaintiff's Exhibit Numbers 1 and 2
15 were marked for identification.)

16 MS. COUNIHAN: For the record, Exhibit
17 Number 2 is PUC 0433 and 0641.

18 BY MS. COUNIHAN:

19 Q. Am I correct on the first page there
20 that it indicates a customer part number SN8532?

21 A. That's right.

22 Q. And is that the serial number of the
23 particular Infranor drive board?

24 A. It is in this case.

25 Q. Are there occasions where the customer

1 part number would not be the serial number of the
2 board?

3 A. There are occasions when the customer
4 part number is really a customer part number to
5 get it into their warehouse. But you're talking
6 about Van Leer. In this particular time, I would
7 say that if we have SN, serial number, and then
8 the four digits after that, we're making a copy
9 or a record to state that this is the serial
10 number of the board that's been repaired.

11 Q. Is there any way to determine that
12 particular serial number, when it was purchased
13 by Van Leer?

14 A. Not in our records, no, meaning
15 Charlotte.

16 Q. Whose records would, if any, have that?

17 A. The UK.

18 Q. Are you familiar with their
19 recordkeeping over there?

20 A. Not to that point, no.

21 Q. Do you know whether you could call them
22 and say: Pull up serial number 8532?

23 A. Never done it. I couldn't tell you.

24 Q. But if it were going to be possible to
25 determine when this board was purchased by Proma,

1 you clearly don't have any way to do it with the
2 documents at your facility, correct?

3 A. That's correct.

4 Q. When the boards are sent to Atlas UK for
5 repair, are they returned directly to Proma or do
6 they come back through you again?

7 A. It could have went either way. It just
8 depends how in dire need the customer was of the
9 drive. But the usual standard operating
10 procedure would be to bring it in through
11 Charlotte. There was a reason for that.

12 Q. What was the reason for that?

13 A. We bulk shipped things into Charlotte
14 and broke things down and forwarded them on to
15 various customers.

16 Q. Did you do any inspection of repaired
17 boards when they would arrive in Charlotte?

18 A. No.

19 Q. So they would be sent directly to Proma
20 as you received them?

21 A. Yes.

22 Q. No changes are made to the boards?

23 A. Not in Charlotte.

24 Q. Are any documents provided to you from
25 Atlas with respect to what the repair was?